

REMARKS

Applicant has amended the abstract and amended Claim 1 to correct the lack of antecedent basis cited by the Examiner. Based on the amendment to Claim 1 and the following arguments, Applicant believes the Application is in condition for allowance and respectfully requests such action by the Examiner.

Claims 1-9 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As stated above, applicant has amended Claim 1 to correct the lack of antecedent basis cited by the Examiner. Applicant respectfully requests that the Examiner remove the rejection of Claims 1-9 based on §112, second paragraph.

Claims 1, 3, and 6-16 are rejected under 35 U.S.C. §102(b) as being anticipated by Chen et al. (U.S. Patent No. 5,832,208).

The invention claimed by the Applicant relates to a method and device for detecting and inoculating emails *as they are passing over the network*. By passing over the network the applicant means that the emails are in packetized form, being comprised of one or more packets encapsulated in the associated network protocols, such as Internet Protocol headers, and/or other network transmission protocols. This limitation is clearly stated in Claim 1, where the first element requires the “scanning data packets forming the traffic flow associated with the email”, as well as in the last element requiring the “altering the bits of the data packet”. The limitation also clearly appears in Claim 10 which requires “a content processor connected to the memory, the content processor operable to scan the data packets and determine whether the contents of the data packets match one of the signatures of viruses in the database of known signatures”. Thus, the invention claimed by the Applicant requires that the scanning for the virus occur on emails which are in the form of packetized network transmissions.

This is clearly distinct from the software agent described in Chen et al. The agent of Chen et al. operates with mail server programs loaded on mail servers. (see, col. 5, lines 18-21; col. 5, lines 29-31; col. 6, lines 55-58). The agent of Chen et al. scans emails while they are stored in the email server or associated database. (col. 7, lines 10-16). Emails stored in an email server or associated database are not in packetized form as required by Claims 1-18. Similarly, the agent of Chen et al. does not scan data packets, but instead scans the email server memory or database.

Additionally, the reference to “real-time” in Chen et al. is a separate concept from the real-time described in the present invention. Real-time in Chen et al. means that the emails are scanned as soon as they are sent or received by the email server on which the agent is resident. (col. 12, lines 63-67) Real-

time in the context of the present invention refers to concept of scanning the data packets at the transmission speed of the network over which the data packets are passing, in other words, not requiring that the message be taken out of its packetized form and stored before it is scanned, which is exactly what occurs with Chen et al. where the actual scanning is done by a third party anti-virus program. (col. 7, lines 31-32)


Since the agent of Chen et al. does not scan email in the form of data packets being transmitted across a network, and since this limitation is clearly set forth in Claims 1 and 10 and therefore, dependent Claims 2-9 and 11-18, Applicant respectfully asserts that Claims 1, 3, and 6-16 are not anticipated by Chen et al. and requests that the rejection by the Examiner be withdrawn.

Claim 2 is rejected under 35 U.S.C. §103(a) as being unpatentable over Chen et al. in view of Templeton (U.S. Patent No. 6,401,210); claims 4 and 5 are rejected as being unpatentable over Chen et al. in view of Kuo et al. (U. S. Patent No. 6,230,288); and claims 17 and 18 are rejected as being unpatentable over Chen et al.

Applicant respectfully traverses the Examiner's rejection of Claims 2, 4, 5, 17, and 18 as being unpatentable under §103(a). As the claims are all claims dependent on allowable base claims as set forth in Applicant's arguments above, however, the Examiner's rejections are moot and will not be specifically addressed by the Applicant.

Applicant believes in view of the foregoing amendments and arguments that the application is in condition for allowance and respectfully requests such action by the Examiner. If there are any issues, questions, or if the Examiner does not believe the application is in condition for allowance, the Examiner is invited to call the undersigned attorney at the number below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Craig J. Cox", with a stylized flourish at the end.

Craig J. Cox
Reg. No. 39,643

Date: May 21, 2004

Netrake Corporation
3000 Technology Drive
Suite 100
Plano, Texas 75074